



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DNA PROPERTIES, INC., ) NO. CV 14-476-UA  
Plaintiff, ) (DUTYx)  
v. ) ORDER SUMMARILY REMANDING  
JOHNETTA G. WILLIAMS, ) IMPROPERLY-REMOVED ACTION  
TERRENCE C. ELLSWORTH, )  
AND DOES 1 THROUGH 10, )  
Defendants. )

The Court summarily remands this unlawful detainer action to state court summarily because defendant JOHNETTA G. WILLIAMS ("Defendant") removed it improperly.

On January 21, 2014, Defendant, having been sued in what appears to be a routine unlawful detainer action in California state court, lodged a Notice Of Removal of that action to this Court and also presented an application to proceed in forma pauperis. The Court has denied the latter application under separate cover because the action was not properly removed. To

1 prevent the action from remaining in jurisdictional limbo, the  
2 Court issues this Order to remand the action to state court.  
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4 Under 28 U.S.C. § 1331, district courts "have original  
5 jurisdiction of all civil actions arising under the Constitution,  
6 laws, or treaties of the United States." Federal jurisdiction is  
7 presumed absent unless defendant, as the party seeking to invoke  
8 the court's jurisdiction, shows that plaintiff has either alleged  
9 a federal cause of action, American Well Works Co. v. Layne &  
10 Bowler Co., 241 U.S. 257, 260 (1916), a state cause of action that  
11 turns on a substantial dispositive issue of federal law, Franchise  
12 Tax Board v. Construction Laborers Vacation Trust, 463 U.S. 1, 9  
13 (1983), or a state cause of action that Congress has transformed  
14 into an inherently federal cause of action by completely preempting  
15 the field of its subject matter. Metropolitan Life Ins. Co. v.  
16 Taylor, 481 U.S. 58, 65 (1987). Under 28 U.S.C. § 1332(a),  
17 "district courts also have original jurisdiction of all civil  
18 actions where the matter in controversy exceeds the sum or value of  
19 \$75,000, exclusive of interest and costs, and is between . . .  
20 citizens of different states." See also Matheson v. Progressive  
21 Specialty Ins. Co., 319 F.3d 1089, 1090 (9th Cir. 2003).

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23 Defendant's notice of removal only asserts that removal is  
24 proper based upon federal question jurisdiction, alleging that the  
25 complaint was based on a defective notice under 12 U.S.C. § 5220.  
26 (Notice at 4). However, the underlying unlawful detainer action  
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1 does not raise any federal legal question. Nor does it appear that  
2 federal law is a necessary element of any of plaintiff's claims.  
3 See Wells Fargo Bank v. Lapeen, No. C 11-01932 LB, 2011 WL 2194117,  
4 \*3 (N.D. Cal. June 6, 2011) ("an unlawful detainer action, on its  
5 face, does not arise under federal law but is purely a creature of  
6 California law," citing Wescom Credit Union v. Dudley, No. CV 10-  
7 8203-GAF (SSx), 2010 WL4916578, \*2 (C.D. Cal. Nov. 22, 2010)  
8 (remanding an action to state court for lack of subject matter  
9 jurisdiction where plaintiff's complaint contained only an unlawful  
10 detainer claim). Moreover, "'the existence of a defense based upon  
11 federal law is insufficient to support federal-question  
12 jurisdiction.'" Hall v. North American Van Lines, Inc., 476 F.3d  
13 683, 687 (9th Cir. 2007) (quoting Wayne v. DHL Worldwide Express,  
14 294 F.3d 1179, 1183 (9th Cir. 2002)).

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16 Finally, defendant has not alleged complete diversity of  
17 citizenship between the parties and has not established that the  
18 amount in controversy exceeds \$75,000. See 28 U.S.C. § 1332(a). On  
19 the contrary, the unlawful-detainer complaint recites that the  
20 amount in controversy does not exceed \$10,000 and the prayer for  
21 relief alleges a past due rent of \$1,160 and \$35.66 per day from  
22 December 1, 2013 for each day that defendants remain in possession  
23 through entry of judgment. See 28 U.S.C. §§ 1332, 1441(b);  
24 Guglielmino v. McKee Foods Corp., 506 F.3d 696, 699-701 (9th Cir.  
25 2007) (quoting Lowdermilk v. U.S. Bank Nat'l Ass'n, 479 F.3d 994,  
26 1000 (9th Cir. 2007)).

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1 Accordingly, the Court lacks subject matter jurisdiction over  
2 the instant action and removal of this action is improper. See 28  
3 U.S.C. § 1441(a); Exxon Mobil Corp v. Allapattah Svcs., Inc., 545  
4 U.S. 546, 563 (2005).

Defendant is further notified and warned that any subsequent attempts to remove the underlying state unlawful detainer action to this Court will be improper and will constitute vexatious conduct that the Court will address by way of punitive remedial measures, which may include having defendant designated as a vexatious litigant and barred from commencing any further removal actions with respect to the underlying state unlawful detainer action.

14       Accordingly, IT IS ORDERED that (1) this matter be REMANDED to  
15 the Superior Court of California, County of Los Angeles, 1725 Main  
16 Street, Santa Monica, California 90401, for lack of subject matter  
17 jurisdiction pursuant to 28 U.S.C. § 1447(c); (2) that the Clerk  
18 send a certified copy of this Order to the state court; and (3)  
19 that the Clerk serve copies of this Order on the parties.

21 IT IS SO ORDERED.

DATED: 1/30/14

GEORGE H. KING  
CHIEF UNITED STATES DISTRICT JUDGE